

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

JULIE DALESSIO, an individual,

Plaintiff,

v.

UNIVERSITY OF WASHINGTON, a
Washington Public Corporation; ELIZA
SAUNDERS, Director of the Office of
Public Records, in her personal and official
capacity; ALISON SWENSON, Compliance
Analyst, in her personal capacity; PERRY
TAPPER, Public Records Compliance
Officer, in his personal capacity; ANDREW
PALMER, Compliance Analyst, in his
personal capacity; JOHN or JANES DOES
1-12, in his or her personal capacity,

Defendants.

No. 2:17-cv-00642-MJP

DEFENDANT UNIVERSITY OF
WASHINGTON'S RESPONSE TO
PLAINTIFF'S MOTION FOR JOINDER

NOTED FOR HEARING:
FRIDAY, APRIL 20, 2018

I. INTRODUCTION

Plaintiff's motion to join parties [*Dkt.* 79] is moot as the Court has already ruled she can amend her Complaint to add all requested individuals with the exception of counsel for the Defendant University of Washington ("Defendant" or "University") - Jayne Freeman, Derek Chen, and their legal assistant LaHoma Walker ("Defense Counsel"). *Dkt.* 80. The Amended Complaint has now been filed. *Dkt.* 82.

For the same reasons identified in detail in Defendant's Opposition to Plaintiff's Motion to Amend, *Dkt.* 75, Defendant files this response to preserve its initial objection to

adding any new parties as the claims against them directly contradict legal precedent.¹

II. STATEMENT OF FACTS

On March 12, 2018, Plaintiff filed a motion for leave to file an Amended Complaint requesting to new claims against a series of new Defendants, including Eliza Saunders, Perry Tapper, Andrew Palmer, Alison Swenson, Jayne Freeman, Derek Chen, LaHoma Walker, and John or Jane Does 1-12. *Dkt. 74-1*, at pp. 2-5. *Dkt. 74*. On April 4, 2018, Plaintiff filed a motion to join additional parties, which was substantively no different than her motion to amend. *Dkt. 79*. Over the University's object, the court then granted Plaintiff's Motion to Amend in part, as follows, on April 6, 2018:

Plaintiff will be permitted to file her amended complaint as proposed with the exception of the allegations and claims concerning the acts of counsel (and counsel's staff) for the Defendant University of Washington. Ms. Freeman, Mr. Chen, and Ms. Walker may not be added as defendants in the amended pleading.

Dkt. 80, at p. 1.

Defense Counsel requested confirmation from Plaintiff's counsel, Mr. Thomas, that he would strike her motion for joinder, as it was now moot. Mr. Thomas initially agreed. to withdraw it. *Exh. A to Freeman Decl.*, at pp. 3-4. A few days later, Mr. Thomas emailed that he would not withdraw the motion because he did not think the court's order [*Dkt. 80*] authorized the joinder of new parties *Id.* at p. 1. The Motion for Joinder still seeks to add defense counsel, Ms. Freeman and Mr. Chen, and their legal assistant, Ms. Walker, as Defendants in the lawsuit despite the court's intervening order on April 6th.

Plaintiff filed her Amended Complaint, in accordance with the court's order, on April 13, 2018. *Dkt. 82*. Defense counsel continued to request that Plaintiff strike the Motion for Joinder at that point, and again after defense counsel filed a Notice of Appearance for the newly-added Defendants in Plaintiff's Amended Complaint on April

¹ Defendant understands and acknowledges the Court has found these claims pass the low bar for amending a Complaint. However, it is Defendants position that these claims against these new parties are futile and Plaintiff should not have been allowed to Amend her Complaint to add them. Defendants will be seeking dismissal on Motions to Dismiss or a Motion for Summary Judgment in the near future.

16th. *Dkt.* 83. Plaintiff's counsel still has not withdrawn the motion, which is noted for hearing April 20, 2018.

III. EVIDENCE RELIED UPON

- Declaration of Jayne Freeman and attached exhibit.
- Pleadings already filed with the Court.

IV. ARGUMENT AND ANALYSIS

A. Plaintiff's Motion is Mooted by the Court's April 6 Order Regarding Plaintiff's Motion to Amend Her Complaint.

Plaintiff already requested to add additional defendants, and has now filed an Amended Complaint in accordance with the portion of the Motion that was granted by the court, including adding several new individual Defendants. *Dkts.* 74, 74-1, 80, 82. The additional Motion for Joinder as to parties and claims the court already allowed to be added is moot.

B. Plaintiff's Motion to Join Defense Counsel as Defendants I in Contravention of the Court's April 6th Order Denying New Claims Against Defense Counsel.

Further, the Court specifically ruled on April 6th that Plaintiff could not add claims against defense counsel because their actions were subject to absolute immunity. Yet Plaintiff has not withdrawn even that portion of her Motion for Joinder, despite repeated requests. *Id.*, at pp. 2-3. The Court should deny Plaintiff's Motion for Joinder regarding the request to add defense counsel as Defendants.

V. CONCLUSION

The issue of joining parties was settled by the Court's order on Plaintiff's Motion to Amend her Complaint to add new claims against new parties. Defendant intends to abide by that order. However, because Plaintiff refuses to strike this motion, and apparently still believes these issues are in dispute, Defendant is forced to file a substantive response.

DATED: April 16, 2018

KEATING, BUCKLIN & McCORMACK, INC., P.S.

By: /s/ Jayne L. Freeman

Jayne L. Freeman, WSBA #24318

Special Assistant Attorney General for Defendants

801 Second Avenue, Suite 1210

Seattle, WA 98104-1518

Phone: (206) 623-8861

Fax: (206) 223-9423

Email: jfreeman@kbmlawyers.com

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Attorneys for Plaintiff

Mr. Joseph Thomas
14625 SE 176th Street, Apt. N-101
Renton, WA 98058-8994
Telephone: (206) 390-8848
Email: joe@joethomas.org

DATED: April 16, 2018

/s/ Jayne L. Freeman

Jayne L. Freeman, WSBA #24318
Special Assistant Attorney General for Defendant
801 Second Avenue, Suite 1210
Seattle, WA 98104-1518
Phone: (206) 623-8861
Fax: (206) 223-9423
Email: jfreeman@kbmlawyers.com